BEFORE THE NEBRASKA PROFESSIONAL PRACTICES COMMISSION STATE OF NEBRASKA

Douglas D. Christensen Commissioner of Education 301 Centennial Mall South - 6th Floor P.O. Box 94933 Lincoln, NE 68509-4933) N.P.P.C. Case No. 02-07) Case No. 01005)	OCT 2002 RECEIVED Certification Counsel
Petitioner,)))	STATE STRIP
Rebecca Mannigel 10406 Fort Plaza , #12 Omaha, NE 68134) Findings Of Fact, Conclusions) Of Law, And Order) Of The Commission)	
Respondent.)	

I. STATEMENT OF THE CASE

This case commenced with the filing of a Petition on March 29, 2002, by Douglas D. Christensen, Commissioner of Education, Department of Education, State of Nebraska, hereinafter referred to as "Petitioner." The Petition was filed against Rebecca Mannigel, hereinafter referred to as "Respondent." The Petitioner alleges certain acts of conduct by the Respondent in violation of Neb. Rev. Stat. Sec. 79-866(2) (Reissue 1996); Title 92, Nebraska Administrative Code, Chapter 27, Section 994.02D, Section 004.03C, Section 004.04E, and Section 005.09D all having an effective date: December 25, 1989.

On March 29, 2002, the Petition, Notice of Right to Submit an Answer, and a copy of Title 95, Nebraska Administrative Code, Chapter 1 (effective date: October 30, 1993), were served upon Respondent and her attorney, GregoryDamman, by U.S. Mail, postage prepaid. On April 8, 2002, the Respondent through her attorney, filed an Answer. On July 8, 2002, Kathi Vontz, Clerk of the Commission sent a Notice of Hearing to all parties by U.S. Mail, postage prepaid. The Notice of Hearing advised that a public hearing on the Petition and Answer would be held on the 21st day of September, 2002, commencing at 9:00 a.m. or immediately following the preceding hearing, in the State Board Hearing Room, 6th Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The Notice further advised that the hearing would be held before a designated hearing committee of the Commission, with Samuel Van Pelt serving as legal counsel to advise the Chair in the performance of his duties. On September 6, 2002, the Petitioner and Respondent, through their respective attorneys of record, filed a stipulation that the testimony of witnesses and exhibits contained in the transcript and

received in evidence in trial in the County Court of Seward County, Nebraska, Case No. 00-892, entitled "State v. Mannigel," be received in evidence before the Commission, and that hearing panel members may possess and review the same prior to its receipt in evidence at the hearing scheduled on September 21, 2002.

The Petition and Answer came on for hearing at the above time and place before a Hearing Panel of the Commission consisting of Commission Members Jay Bellar, Rose Mary Datus, Mimi Heintzman, Kenneth Heinz, Linda Mihm, Timothy Shafer, Catherine Simon, Loretta Tebbe, James Thomas, Debra Wallman, and Leann Widhalm. Commissioner Heinz served as Chairperson. The proceedings were reported by Carolyn Freeman of General Reporting Services, Lincoln, Nebraska. The Petitioner appeared by Brian L. Halstead, Certification Counsel. The Respondent appeared in person and with her attorney, Gregory C. Damman. Exhibits and testimony were received in evidence, and counsel for the parties made their closing arguments. The Commission deliberated based on the record before it, and makes the following Findings of Fact, Conclusions of Law, and Order:

II. FINDINGS OF FACT

- 1. The Petitioner, Douglas D. Christensen, is the Commissioner of Education for the State of Nebraska; Respondent holds a Nebraska public school certificate, number -8584, Type 2, Rank C, Level 7, endorsed in Elementary Education K-8, with an expiration date of August 31, 2003.
- 2. The Respondent at all times mentioned herein was and is employed as a sixth grade teacher by St. Paul Lutheran School in Omaha, Nebraska. On November 10, 2001, on a Friday night after work, the Respondent traveled from Omaha to Seward, her home, to spend the weekend with her family. During that evening she spent several hours with a sixteen-year-old male student of the Seward Public Schools, during which time the student consumed alcohol to such an extent that he had a blood alcohol content of .238. Subsequently, the Respondent lied to the student, the student's mother, and law enforcement respecting some of the evening's events and her involvement therein.
- 3. The Respondent was subsequently charged with two misdemeanors in the Seward County Court. After a trial to a jury, she was found not guilty on all counts. Pursuant to an agreement with authorities to cooperate in the investigation and the prosecution of the Respondent, the sixteen-year-old male was not criminally charged.

III. DISCUSSION

All eleven Commission members agreed that the Petitioner had proven by a preponderance of the evidence that the Respondent violated Title 92, Nebraska Administrative Code, Chapter 27, Section 005.09D (effective date: December 25, 1989), which states that educators shall possess effective human and interpersonal relations skills and therefore, shall provide leadership and direction for others by appropriate example. A majority of nine Commissioners found that the Petitioner had proven by a preponderance of the evidence that the

Respondent violated Section 004.02D of the above Administrative Code which states that the educator shall not make any fraudulent statement or fail to disclose a material fact for which the educator is responsible. A majority of eight Commission members found that the Commissioner had proven by a preponderance of the evidence that the Respondent violated Section 004.03C of the above Administrative Code which states that the educator shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety. A majority of seven Commission members found that the Petitioner had failed to prove by a preponderance of the evidence that the Respondent violated Neb. Rev. Stat. Section 79-866(2) (Reissue 1986) and Title 92, Nebraska Administrative Code, Chapter 27, Section 004.04E (effective date: December 25, 1989), which state that an educator shall not commit an immoral act or an act of moral turpitude.

Based upon the above-found violations, a majority of six Commission members agreed that the Respondent should be issued a public reprimand. A minority of five Commission members felt that the Respondent's public school teaching certificate should be suspended for a period of one year.

IV. CONCLUSIONS OF LAW

- 1. The Commission has jurisdiction in this case, and all proceedings have been in accordance with applicable Constitutional, Statutory, and Regulatory requirements.
- 2. The Petitioner has failed to prove by a preponderance of the evidence that Respondent committed an immoral act or an act of moral turpitude.
- 3. The Petitioner has proven by a preponderance of the evidence that the Respondent made fraudulent statements and failed to disclose a material fact for which she was responsible; that the Respondent failed to make reasonable efforts to protect a student from conditions which interfered with the learning process or were harmful to the student's health or safety; and that the Respondent failed to possess effective human and interpersonal relations skills and therefore failed to provide leadership and direction for others by appropriate example.
- 4. Considering the above conduct of the Respondent, an appropriate discipline would be a public reprimand.

V. ORDER

Therefore, the Commission respectfully orders that Rebecca Mannigel, holding Nebraska public schools teaching certificate number -8584, Type 2, Rank C. Level 7, endorsed in Elementary Education K-8, with an expiration date of August 31, 2003, be publicly reprimanded for her conduct set forth in the above conclusions of law.

Dated this

day of *Strile*, 2002.

Kenneth Heinz, Chairperson

Nebraska Professional Practices Commission

CERTIFICATE OF SERVICE

Rebecca Mannigel Respondent 10406 Fort Plaza, #12 Omaha, NE 68134 Brian L. Halstead Attorney for Petitioner 301 Centennial Mall South Lincoln, NE 68509

Gregory Damman Attorney at Law P.O. Box 98 Seward, NE 68434

Kathi Vontz

Clerk of the Commission